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8 BANKRUPTCY COURT FOR THE
9 EASTERN DISTRICT OF WASHINGTON AT SPOKANE

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11 In re Giga Watt, Inc.,
12 Debtor.

COMMITTEE'S RESPONSE TO
AMENDED MOTION FOR RELIEF
FROM AUTOMATIC STAY;
ABANDONMENT OF PROPERTY OF
THE ESTATE

CASE NO: 18-03197 FPC 11

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16 The Committee of Unsecured Creditors ("Committee") of the Chapter 11 Bankruptcy
17 Estate of Giga Watt, Inc. ("Debtor") hereby responds to the Motion for Relief from Stay
18 ("Motion") and Related Relief from Chelan Douglas Regional Port Authority ("Port
19 Authority"), ECF No. 478, as follows:

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21 First, the Port Authority's contention is without merit that the leasehold property should
22 be abandoned because it lacks value. According to the underlying amended schedules filed in
23 this case, the items being constructed at the Pangborn site had a cost-basis of more than \$2.1
24 million. ECF No. 40 at p. 4. While this value has no doubt diminished over time, the Port
25 Authority should not obtain a windfall of valuable assets.
26

1 To that ends, the schedule of items to be abandoned in the Declaration in Support of the
2 Motion, **Exhibit E** to the Kuntz Memorandum, ECF No. 468, at p. 38, needs to specifically
3 indicate what the value of the items to be abandoned actually is. Without this information, Port
4 Authority probably cannot make out the threshold burden under 11 U.S.C. § 554, that the items
5 are of “*inconsequential value and benefit to the estate.*” Any supplemental submission by the
6 Port Authority should also make clear whether this inventory is a current one, or more dated,
7 and does not take into account items that the Trustee has already removed from the leasehold.
8 In its response, the Trustee will hopefully document that over the last six+ months, it has been
9 transferring valuable assets from the Pangborn site to its other facilities.
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11 Second, the Port Authority, Giga Watt, Inc., and the Douglas County Public Utility
12 District (“PUD”) are parties to interlocking contracts concerning lease of land and provision of
13 utilities. The Committee is currently pursuing an investigation to recover the value of the PUD
14 electricity contract for the bankruptcy estate, and intends to file a motion seeking authority to
15 bring litigation concerning the same before March 6, 2020.
16

17 The Committee does not anticipate that, were the present Motion granted, that the Port
18 Authority or its related partner, the PUD, would use the ensuing order to defend against a
19 subsequent action by the Committee. Nonetheless, out of an abundance of caution, the
20 Committee requests that any Order entered with regard to the Motion make clear that the relief
21 granted is without prejudice to any investigation or future claims brought by the Committee
22 concerning the PUD.
23

24 To the extent that the Court is at all hesitant to include such language within the Order,
25 the Committee requests that the Court delay granting such relief until the Court considers the
26 forthcoming motion for authority for the Committee to bring litigation against the PUD (again,

1 to be filed no later than March 6). Once that issue is resolved, the prospect and prejudice of
2 potential issue preclusion can more accurately be gauged by all parties.
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7 DATED this 27th day of February, 2020.

8 SALISH SEA LEGAL PLLC
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10 By /s/ Ben Ellison

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